IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4232 OF 2006

Manish Anilkumar Dubey and others ...Applicants

vs.

State of Maharashtra and another ...Respondents

Ms M.A.Ingale for the Applicant
Mr.D.P.Adsule, A.P.P. for State
Ms Vaijayanti Kalekar for Respondent No.2.

CORAM: A.S.OKA,J.
DATE : DECEMBER 4,2006.

ORAL JUDGMENT:

1. Rule. Learned A.P.P. waives service for the first Respondent. The learned Advocate for the second Respondent waives service. Taken up for hearing forthwith. Leave to amend for correcting the case number. Amendment is carried out in the court.

2. The Applicants have filed this application under section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of the cases on the basis of F.I.R. lodged at the instance of the second Respondent. The second Respondent is the wife of the first Applicant. The second Applicant is the brother of the first Applicant. The third Applicant is the mother of the first Applicant and the fourth and fifth Applicants are the sisters of the first Applicant. The F.I.R. was lodged by the second Respondent alleging commission of offence under section 498-A read with section 34 of the Indian

Penal Code. On the basis of the said F.I.R., a case is pending in the Court of Judicial Magistrate (First Class) at Thane as against the Applicant Nos.1 to 3 and another case is pending before the Juvenile Court at Bhivandi against the Applicant Nos.4 and 5.

3. The prayer in this Application is for quashing the F.I.R. and the proceedings of criminal cases on the ground that there is an overall settlement between the first Applicant and the second Respondent which is reflected in the consent terms filed on 15th July 2006 before the Family Court.

4. I have considered the submissions. A copy of consent terms admittedly signed by the first Applicant and the second Respondent filed in the Family Court is placed on record. The paragraph 7 of the consent terms reads as under :

> "7. The Respondent and his family members who are facing trial under section 498-A of I.P.C. vide 178/04 before the Ld. J.M.F.C. Court at Thane shall make an application for quashing the said complaint u/s.482 of Cr.P.C. before Hon'ble High Court and the Petitioner's father undertakes that he shall make his daughter Pooja Manish Dubey to co-operate and file necessary affidavit mentioning settlement and withdrawal of the complaint. In alternate the Petitioner undertakes that she and her relatives

shall withdraw Criminal Case filed against the Respondent and his family u/s. 498-A of I.P.C. vide No.117/2004 pending at Thane Court."

5. In the Affidavit-in-reply of the second Respondent in paragraph Nos.2 and 3 thereof, the second Respondent has stated as under :

"2. I state that in view of the settlement of the dispute between us the petition for divorce filed by me against the Petitioner No.1 u/s.13 (1) (a) has been converted into petition for divorce by mutual consent u/s 13(b) Hindu Marriage Act and decree for dissolution of marriage has been passed on 2-12-2006.

3. I state that in pursuance of the consent terms filed before the Family Court the Petitioner No.1 has deposited sum of Rs.2,00,000/- (Rupees Two Lakhs only) with the Family Court to be paid to me towards full and final settlement of the maintenance / alimony. The Petitioner No.1 has also deposited sum of Rs.75,000/- in the Family Court towards settlement of the complaint No.3935/SS/05, filed against the Petitioner No.3 by my father u/sec. 138 Negotiable Instruments Act before the Ld.M.M. 43rd Court, Borivali. Hence, the proceedings against the

Petitioners initiated in pursuance of my F.I.R. No. I 40/04 of Mira Road Police station (exhibit A to the Petition) i.e. C.C.No.178/04 before Ld. J.M.F.C. Thane against Petitioner No.1,2 and 3 and C.C.No.231/04 against the Petitioner No.4 and 5 be quashed."

6. Thus it appears to me that the F.I.R. lodged by the second Respondent was an outcome of the matrimonial dispute between the first Applicant and the second Respondent. Now, there is a complete settlement between the first Applicant and the second Respondent and a sum of Rs.2,75,000/- is already paid by the first Applicant to the second Respondent.

7. In view of the settlement between the parties, continuation of criminal proceedings will not serve any purpose. Continuation of criminal proceedings will cause a sheer harassment to both the parties. A case is made out for exercising power under section 482 of the said Code.

8. Hence, I pass the following order :

I) Rule is made absolute in terms of prayer clause (iii). The prayer clause (iii) reads thus :

"iii) This Hon’ble court be pleased to quash the proceedings of C.C.No.178/04 pending before the Ld. J.M.F.C.

Thane and of J.C.No.231/04 pending before Juvenile Bhiwandi, arising out of F.I.R. No.I 40/04 of Mira Road Police Station."

JUDGE